

**MINUTES OF THE REGULAR MEETING OF THE PLANNING BOARD OF
THE VILLAGE OF IRVINGTON HELD IN THE TRUSTEES' ROOM,
VILLAGE HALL, ON FEBRUARY 5, 2003**

Members Present: Peter Lilienfield, Chairman
Carolyn Burnett
Jay Jenkins
William Hoffman
Walter Montgomery, Secretary

Also Present: Lino Sciarretta, Village Counsel
Steve Lopez, Planning Board Consultant
Brenda Livingston, Ad Hoc Planning Board Member
Edward P. Marron, Jr., Building Inspector
Florence Costello, Planning Board Clerk
Thomas Jackson, Environmental Conservation Board
Applicants and other persons mentioned in these Minutes

IPB Matters

Considered:

- 01-26 – Danfor Realty – Harriman Road**
Sht. 13B, P-5, P-5C
- 02-05 – C.M. Pateman & Associates Inc./Nicodemus – 200 Mountain Road**
- 02-26 – Michael-Jason Development Corp. – 4 Dows Lane**
Sht. 7B, Bl. 249, Lot P-77C
- 02-44 - Westwood Development Associates, Inc.**
Lot 4
- 03-02 – Abbey Askari – 196 Riverview Road**
Sht. 10, Lot P-21D7
- 03-05 – Sprint Spectrum, L.P. – 1 Bridge Street**
Sht. 3, Lot P-103

Carried Over:

- 02-11 – Geraldine McGowan Hall – 200 Mountain Road/Hermits Rd.**
Sht. 11, Lot P-7J
- 03-01 – James Mitchell – 50 Kingsley Close**
Sht. 12B, Lot 18
- 03-04 – David Spuria – 19 Connor Court**
Sht. 12B, Lot 51
- 03-06 – Otto & Heidi Naumann – 49 Havemeyer Road**
Sht. 13A, Lot P-138B

Off Agenda:

- 02-52 – Salvatore & Antonietta DeNardo – 92 East Sunnyside Lane**
Sht. 10B, Bl. 229, Lot 54

The Chairman called the meeting to order at 8:05 p.m.

Administrative:

With reference to a Local Law adopted by the Village Board prohibiting the Board from considering any application concerning property on which taxes are delinquent, Mrs. Costello advised the Board that the Village Clerk-Treasurer had confirmed that all properties on the Agenda were current as to taxes and fees. Further, unless otherwise noted, the Applicants submitted evidence of notice to Affected Property Owners.

IPB Matter #02-26:

Application of Michael-Jason Development Corp. for Site Development Plan Approval for property at 4 Dows Lane

Mr. Paul Petretti, civil engineer and land surveyor represented the Applicant. The Application relates to the proposed demolition of an existing residence and construction of a new single-family home.

The Chairman opened the Public Hearing on this matter. Mr. Petretti reviewed actions he had taken to address issues previously raised by the Board, including the preparation of elevation data and provision for an 18"-20" berm and additional plantings. The Chairman asked that Mr. Petretti consider relocating the plantings to create a screen between this property and the adjacent school parcel, as had been requested at the Board's prior meeting. The Chairman confirmed that this property will utilize the public sewer line in El Retiro and noted that Mr. Mastromonaco had no concerns.

There were no comments from the public. The Board voted, upon motion duly made and seconded, to close the Public Hearing and determined that this matter could be treated as a Type II Action under SEQRA. The Board stipulated that the resolution of approval will be subject to the Applicant's taking all requisite measures and safeguards to connect to the public sewer line, install a new manhole, and repave a portion of El Retiro. Upon motion duly made and seconded, subject to this stipulation, the Board granted Site Development Plan Approval for plans entitled Grading, Drainage, Erosion, Site & Utility Plan by Paul J. Petretti, civil engineer and land surveyor, dated November 15, 2002, last revised January 21, 2003, four (4) sheets. The Board instructed the Applicant to prepare a draft written Resolution for the Board's consideration.

IPB Matter #03-02:

Application of Abbey Askari for Site Development Plan Approval for property at 196 Riverview Road.

Mr. Richard Miller, Engineer, represented the Applicant, who is seeking to construct an in-ground pool and patio.

The Board opened a Public Hearing on this matter. Mr. Miller noted that the

Applicant will be seeking a variance from the Zoning Board of Appeals due to excess coverage and, if necessary, for elimination of some of the proposed screening. Mr. Mastromonaco, the Chairman pointed out, had no concerns other than the need for a coverage variance. The Board noted that the plans showed the necessary screening, which would be part of the approvals. A variance would be needed if the applicant sought the elimination of the screening.

There were no comments from the public. The Board voted, upon motion duly made and seconded, to close the Public Hearing and determined this application could be treated as a Type II Action under SEQRA. Upon motion duly made and seconded, the Board granted, subject to the Applicant's obtaining the required variance or variances, Site Development Plan Approval for plans entitled Pool Plans - New In-Ground Shotcrete Swimming Pool by Richard E. Miller PE, Miller Real Estate Services, dated December 20, 2002, revised January 15, 2003, eight (8) sheets.

IPB Matter #03-05:

Application of Sprint Spectrum L.P. for Site Development Plan and Special Use Permit on property at 1 Bridge Street

This matter is a continuation. Mr. David Snyder, Esq., appeared for the Applicant, who is proposing to construct a wireless telecommunications facility consisting of six panel antennas on an existing smokestack at 1 Bridge Street, together with related equipment within an existing building.

The Chairman opened the Public Hearing and asked Mr. Snyder to summarize the proposed project and any revisions that had occurred since the initial submission and January's presentation. In that summary, Mr. Snyder noted that the Applicant had been able to reconfigure the cables inside and up the smokestack, as recommended by the Board. He said that he had submitted to the Board documents addressing its concerns, including additional photographs depicting the visual impact of the panels on the smokestacks (including from the Hudson River and the Scenic Hudson Park).

The Chairman noted that Mr. Mastromonaco had no new comments beyond those cited in his January 8th memorandum. A professional engineer from Bay State Engineering working on behalf of the Applicant addressed the positioning of the wires and bridging from the building parapet to the smokestack, stating the proposed method was acceptable to the landlord and not visible from Main Street.

Mr. Snyder stated that alternative locations for the facility were considered (including, among others, Village Hall, Scenic Hudson, the Trent Building, and the Village Salt Storage Facility) as requested by the Board, and the proposed site is clearly the best for coverage.

Mr. Snyder said the lease had been signed and submitted with the original application, and that a letter dated January 24th, verifying the landlord's approval of the

installation had also been submitted.

The Chairman noted the Board had retained a Telecommunications Consultants, Mr. Richard Comi, to undertake a technical and zoning review of the Application. Mr. Comi's written report to the Board, dated February 5, 2003, included the following points:

- At the height of 55 feet being proposed by the applicant, the panels do not pose any health problems.
- The 55-foot height exceeds the 50-foot maximum permitted under the Village Code.
- The Applicant has not provided data on the safety of the structure as it now exists or with the panels added. This does not mean the project is not safe, but there is not data from which to make an appropriate evaluation.
- The bridge between the smokestack and the building parapet is not an issue.
- Mr. Comi has not seen specific documentation of the lease.
- The proposed signal strength of -90dBm could be an issue, particularly if other carriers wish to install wireless facilities in the future, because under Federal law the Village cannot treat different carriers differently. There is no technical issue if -95dBm capacity is installed for simply in-car coverage. Moreover, a carrier such as Sprint normally wants a stronger signal, of -85dBm, for in-building coverage. At -90dBm, Sprint may decide that it needs additional sites.
- Signal coverage data was not provided.
- Adequate documentation of insurance and indemnification is not provided.
- A licensed engineer has properly certified the application.
- Perhaps the panels can be installed closer to the smokestacks than the proposed 8 inches.

The Chairman asked Mr. Snyder to submit safety data on the current status of the smokestack, its capacity of to accommodate the proposed panels and possible future ones. Mr. Snyder said -80dBm is the optimal strength, given Sprint's objective of in-car coverage; a stronger signal may "step on" other signals or penetrate buildings. Mr. Comi said that other carriers, if they seek in-building coverage, may ask for as much as -80dBm and claim discrimination if they do not receive it. Mr. Snyder stated that a test of

discrimination depends on many variables, not merely signal strength.

Mr. Jenkins suggested that in its resolution the Board be clear that by granting – 90dBm signal strength, the Board is not limiting its discretion to evaluate the signal strength needs of any carrier in the future. By consensus, the Board agreed to insert such a stipulation in its resolution. Neither Mr. Snyder nor Mr. Comi objected.

With regard to height, the Chairman noted there are differing provisions in the Village Code, so that the 55-foot height would not necessarily be a problem. Mr. Comi said the installation could be lower, within 10-feet of the roof, and not pose a safety issue. Mr. Snyder stated that at 50 feet, there potentially would be a need for additional installation sites. After further discussion of coverage, the Board, by consensus, determined it would not require a panel installation height lower than 55 feet.

Mr. Sciarretta asked for proper documentation of insurance and indemnification, and clarification of the lease. The Chairman said the Code requires an affidavit attesting to the property owner's acceptance of co-location.

Barbara Denyer commented that this project appears aesthetically superior to others comparable ones she has seen.

The Chairman said that, for the Board to vote on the Application, the Board must receive from Mr. Snyder a draft resolution, in an electronic version, to review prior to the end of the following week in order for it to be considered at the March meeting. Mr. Snyder said he would also submit the required SEQRA findings statement. Mr. Sciarretta said no re-notification of the public is necessary to vote on the application at the March 5 meeting.

The Public Hearing was left open, to be continued at the March meeting.

IPB Matter #01-26:

**Application for Danfor Realty for Subdivision
Approval for property adjoining Harriman
Road**

Mr. Paul Petretti, civil engineer and land surveyor, represented the Applicant. This matter is a continuing application for preliminary subdivision layout and limited site plan approval of a seven-lot subdivision (2 lots of which are already improved). Mr. Petretti confirmed that all property taxes on the parcel had been duly paid. The Chairman and Counsel noted that the Planning Board had not yet commenced Public Hearings with regard to the Application (despite the Applicant having noticed for a Public Hearing), as it was not yet considered complete.

The Chairman cited Mr. Mastromonaco's latest memorandum, of February 5, as well as the revised draft SEQRA findings statement (with open items dealing with dates of the application and details regarding Hastings Park on the north side of Harriman).

Other Board members had no issues with the statement. Mr. Lopez, the Board's environmental consultant, also had no issues other than those cited by the Chairman. The Board determined that it would not act on the SEQRA findings at this date.

Brenda Livingston noted that an off-site pond might be adversely affected by this project due to siltation. The Chairman said the engineering plans must include safeguards designed to a zero-runoff standard. Mr. Petretti said that new regulations, plus phasing of the work, would also help. The Chairman stated that a phasing plan must be part of the resolution composed by Mr. Petretti.

Mr. Petretti said he would add building envelopes to the plans, after inserting data on storm-water drainage and other infrastructure matters. The Chairman asked that building envelopes be shown for the proposed lots on which the two existing houses are located. Mr. Mastromonaco's memorandum of February 5, 2003 indicates a 20 foot wide pavement in a 40 foot Right of Way would be appropriate for the road off Park Road; Mr. Petretti indicated that this pavement width is acceptable, and that he would cede a strip along the road to the Naughton (the adjoining property owners). The Chairman indicated that these and other details still need to be determined by the Board.

The Chairman added that any approvals would be conditioned on there being no further subdivision or development of the portion of the property at the corner of Park and Harriman (by itself or in combination with the adjoining property). Mr. Petretti accepted that condition. The Chairman asked the Environmental Conservation Board to review this portion of the site, and to inform the Planning Board if there were any actions that it should consider (such as clean up, etc.).

Mr. Petretti, again citing Mr. Mastromonaco's memo, stated he would consider transferring 30 feet along Shady Lane to the Brennan's (at the corner of Shady Lane) and keeping 20 feet for Shady Lane. The Board has yet to make a determination regarding this issue. Mr. Sciarretta asked for data on the easement for utilities.

Mr. Michael Naughton, who owns the property abutting the wetland area at Park and Harriman, said he wants it deeded to him, together with a strip along the pavement off Park Road. He asked, too, that the width of that road be minimized to the extent practicable, and that it be dedicated to the Village as a public road. The Chairman noted the Board of Trustees would determine whether that road is to be public.

Mr. Petretti said he would go to the County Health Department to obtain approval of his plans for water and sewer lines. He also discussed his plans for preventing disruption of utility service during construction.

The Chairman said that all engineering changes should be made to the plans and the building envelopes inserted before the Board could consider the application complete and schedule a Public Hearing, although easement information will not be necessary for that purpose. The Board continued this matter.

IPB Matter #02-44

**Application of Westwood Development
Associates for Site Development Plan Approval
for property at Lot 4, Westwood Subdivision.**

Mr. Steinschneider said the subdivision map had been filed with the County Land Records, and Mr. Pateman indicated the bonding process was still in process but nearly complete. Mr. Sciarretta said he needs to receive and review the wording of the bond before construction can proceed.

The Chairman emphasized, as he had in previous sessions, that the Board would not be in a position to act on this specific Application until the overall subdivision was further in the development process. Given this being the first lot and its location, the Board needs to have a clear visual concept of the layout of the road, conservation easement, the proposed wall along the easement, trees and the property lines; this would require the roads to be cut.

Mr. Steinschneider noted that the Zoning Board of Appeals had issued a variance for a 10% increase in coverage. The Chairman pointed out that the Zoning Board of Appeals stipulated this variance was not to be regarded as a precedent for other lots in the Westwood development.

The Chairman stressed the importance of the proposed wall near the conservation easement, not only for this lot but for the adjoining lots as well. It was agreed that additional work would be undertaken to understanding this issue. Discussion was also held on the height of the proposed structure and its compliance to zoning, and the ECB's concern about tree protection.

The Chairman asked that the Applicant focus on the relationship between the wall and Lots 3, 4 and 5; verify the height of the proposed house; show all requested information on his plans; be sure the back-up space for the garage is adequate; and consider the effect of the driveway design on Lot 5 to the north.

The Board continued this matter.

IPB Matter #02-05

**Application of C.M. Pateman & Associates
Inc./Nicodemus for property at 200 Mountain
Road.**

Charles Pateman, environmental consultant Stephen Coleman and Chris Pateman appeared on behalf of the application. Applicant submitted letter from C.M. Pateman & Associates, Inc., Charles Pateman dated January 21, 2003, and including Exhibits 1 through 5, as described therein, and Resource Protection and Mitigation Plan for C.M. Pateman & Associates, Inc. by Cronin Engineering P.E., P.C. dated February 6, 2002, revised January 21, 2003, two (2) sheets.

Mr. Pateman reviewed the proposed plan for this property and noted a conservation easement on the north side of the property that would be dedicated to the Village. He also said he intends to extend an existing public sewer from Blueberry Hill.

The Chairman noted that the Zoning Board of Appeals had asked the IPB for an advisory opinion with regard to the environmental impact of the proposal on the watershed, steep slopes, and wetlands. In a February 5 letter to the Board, the ECB expressed concerns about the environmental sensitivity of this property.

Mr. Sciarretta said he would look into the history of this property, including related deed transfers. The Chairman also pointed out that Mr. Mastromonaco, in his memorandum of February 5th, expressed several concerns. The Chairman also said that the application is not before the Planning Board for site development plan approval, although it might come back to the Board in the future.

Mr. Thomas Jackson of the ECB said he is concerned about the effects of diverting the stream on the property. Mr. Coleman reviewed the plan for preventing or mitigating negative environmental effects from development of the property.

The Board decided to retain Mr. Steven Lopez of Tim Miller Associates as an environmental consultant, at the expense of the Applicant. He was asked to look at the ECB's concerns, as well as evaluate the site and the Applicant's proposals to mitigate environmental damage.

Mr. Pateman submitted a 1989 conservation report of Dr. Linda Miller and additional information. Mr. Jon Elwyn, who resides near the property, objected to Mr. Pateman's plan to develop the site, and submitted to the Board documents that he said support his objections.

The Board continued this matter.

IPB Matter #03-06:

Application of Otto & Heidi Naumann for Site Development Plan Approval for property at 49 Havemeyer Road.

Prior to the meeting it was determined that there had been an error in the notice sent to affected property owners; the Applicant was instructed to correct and re-mail the notice. As such, the Application was not considered at this meeting, and was carried over to the March 5, 2003 meeting.

IPB Matter #02-11:

Application of Geraldine McGowan-Hall for Site Development Plan Approval for property at 200 Mountain Road/Hermits Road.

There was no appearance on behalf of the Applicant. The Application was carried over to the March 5, 2003 meeting.

IPB Matter #03-01:

**Application of James Mitchell for Site
Development Plan Approval for property at
50 Kingsley Close.**

The Applicant requested that the Application be carried over to the March 5, 2003 meeting.

IPB Matter #03-04:

**Application of David Spuria for Site
Development Plan Approval for property at
19 Connor Court.**

The Applicant requested that the Application be carried over to the March 5, 2003 meeting.

IPB Matter #02-52:

**Application of Salvatore & Antonietta DeNardo
for Subdivision approval for property at
92 East Sunnyside Lane.**

There was no appearance on this matter. The Board removed this item from its agenda and determined it would be subject to future re-notice requirements under the Village Code.

The Board then took the following actions:

- It approved the minutes of its regular meetings of November, 2002, and January, 2003;
- It confirmed its next Regular Meeting will be on March 5, 2003.

The meeting was adjourned at 11:04 p.m.

Respectfully Submitted,

Walter Montgomery
Secretary